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**UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA**

**JESSICA L. STOCK,
Individually and On Behalf of All
Others Similarly Situated,**

Plaintiff,

V.

**WELLS FARGO & COMPANY;
WELLS FARGO BANK, N.A.;
and EARLY WARNING
SERVICES, LLC D/B/A
ZELLEPAY.COM.**

Defendants.

Case No.: 8:22-cv-00763

**CLASS ACTION COMPLAINT
FOR DAMAGES FOR
VIOLATIONS OF:**

- 1) ELECTRONIC FUND TRANSFER ACT (“EFTA”), 15 U.S.C §§ 1693, *ET SEQ.*;
- 2) CALIFORNIA’S UNFAIR COMPETITION LAW (“UCL”), CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.*;
- 3) NEGLIGENCE.

JURY TRIAL DEMANDED

The plaintiff Jessica L. Stock (“Ms. Stock” or “Plaintiff”) brings this complaint, by and through her attorneys and on behalf of all others similarly situated, against Defendants Wells Fargo & Company (“WFC”); Wells Fargo Bank, N.A. (“Wells Fargo Bank”); and Early Warning Services, LLC d/b/a Zellepay.com (“Zelle”) (together the “Defendants”) and alleges upon information and belief as follows:

INTRODUCTION

1. Plaintiff is a victim of a scam targeting individual customers of Wells Fargo Bank in connection with the Zelle mobile application, resulting in \$1,000 being debited from Plaintiff's checking account without Plaintiff's authorization.

2. Such Zelle scam is well-known to Defendants. Indeed, Wells Fargo Bank partially owns Zelle. However, Defendants have not taken appropriate steps to protect consumers from such scams which often results in losses of thousands of dollars to individual consumers and customers of Wells Fargo Bank.

3. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to Plaintiff, or to Plaintiff's counsel, which Plaintiff alleges on personal knowledge.

4. While many violations are described below with specificity, the Complaint alleges violations of each statute cited in its entirety.

5. Unless otherwise indicated, the use of Defendants' names in this Complaint include all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of the Defendants, respectively.

6. In enacting the Electronic Fund Transfer Act (“EFTA”), Congress found that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers. 15 U.S.C. § 1693(a). However, due to the unique characteristics of such systems, the application of existing consumer protection legislation was unclear during the time of its enactment, which left the rights and

1 liabilities of consumers, financial institutions, and intermediaries in electronic fund
2 transfers undefined. *Id.*

3 7. That said, Congress's purpose in enacting the EFTA was to "provide a basic
4 framework establishing the rights, liabilities, and responsibilities of participants in
5 electronic fund and remittance transfer systems." *Id.* § 1693(b). However, "[t]he
6 primary objective of [the EFTA] is the provision of individual consumer rights." *Id.*

7 **JURISDICTION AND VENUE**

8 8. Original subject matter jurisdiction is valid in the U.S. District Court pursuant
9 to 28 U.S.C. § 1331 because this case arises out of violations of federal law under
10 the EFTA, 15 U.S.C. §§ 1693, *et seq.* Jurisdiction of this Court arises pursuant to
11 28 U.S.C. §§ 1331 and 1367 for supplemental jurisdiction over the California state
12 law claims arising from the same or substantially similar transactions that form the
13 basis of the EFTA claim.

14 9. Moreover, the Court has jurisdiction pursuant to the Class Action Fairness
15 Act, 28 U.S.C. § 1332(d) because (i) there is minimal diversity; (ii) Defendants are
16 not government entities against whom the District Court may be foreclosed from
17 ordering relief; (iii) there are more than one hundred (100) people in the putative
18 class; and (iv) the amount in controversy exceeds \$5,000,000, exclusive of interest
19 and costs.

20 10. Venue is proper pursuant to 28 U.S.C. § 1391(b) because: (1) Defendants
21 transact business within this judicial district and because Plaintiff was a resident of
22 Orange County, California at all times relevant to these claims such that a substantial
23 part of the events giving rise to Plaintiff's causes of action against Defendants while
24 Plaintiff resided in this judicial district; and (2) Defendants' contacts with this
25 District are sufficient to subject them to personal jurisdiction within this judicial
26 district.

PARTIES

11. Plaintiff is, and at all times mentioned herein a natural person, individual citizen and resident of California, County of Orange, in this judicial district.

12. Upon information and belief, WFC is a diversified financial services company headquartered in San Francisco, California that provides banking, insurance, investments, mortgage banking, and consumer finance through banking stores, the internet, and other distribution channels to customers, businesses, and other institutions in all 50 states and in other countries.

13. Upon information and belief, WFC exercises specific and financial control over the operations of Defendant Wells Fargo Bank, dictates the policies, procedures, and practices of Wells Fargo Bank, exercises power and control over the specific activities upon which the claims herein are based, and is the ultimate recipient of the unreimbursed transactions described herein.

14. Plaintiff is informed and believes, and thereon alleges, that Wells Fargo Bank is, and at all times mentioned herein was, a national bank association chartered under the laws of the United States with its primary place of business in Sioux Falls, South Dakota. Wells Fargo Bank provides WFC personal and commercial banking services and is WFC's principal subsidiary.

15. Plaintiff is informed and believes, and thereon alleges, that Zelle is a limited liability company established under the laws of Delaware with its principal place of business in the State of Arizona.

16. Upon information and belief, Zelle is an instant payment services business owned by seven large banks in the United States, which includes WFC.

17. Plaintiff is informed and believes, and thereon alleges, that Zelle makes money by facilitating payments with participating banks.

11

11

11

BACKGROUND ON ZELLE SCAMS

18. Created in 2017 by America's largest banks¹ to enable digital money transfers, Zelle comes embedded in banking apps and is now America's most widely used money transfer service, outpacing its closest rival (Venmo) by \$260 billion in transfers in 2021.²

19. Though the immediacy of Zelle's service has made it a favorite primarily among consumers, it has made it a favorite among fraudsters as well.³ Once scammers can scare or trick their victims into sending money via Zelle, "they can siphon away thousands of dollars in seconds."⁴

20. Banks, including Wells Fargo, are aware of the widespread fraud on Zelle but are doing virtually nothing to stop it and doing little to nothing to help consumers get their money back.⁵

21. In one instance involving a consumer who called Wells Fargo's customer service line to report losing \$500.00 because of a Zelle scam, the customer service representative indicated that “[a] lot of people are getting scammed on Zelle this way” and that “[g]etting ripped off for \$500 was ‘actually really good,’ . . . because ‘many people were getting hit for thousands of dollars.’”⁶

22. Despite Defendants being keenly aware of these scams, banks like Wells Fargo, and Zelle itself, have not done nearly enough to educate consumers about the risks of using Zelle,⁷ a payment service in which Defendants' have a financial interest.

¹ Bank of America, Capital One, JPMorgan Chase, PNC, Trust, U.S. Bank and Wells Fargo.

² <https://www.nytimes.com/2022/03/06/business/payments-fraud-zelle-banks.html> (last visited March 30, 2022).

3 *Ibid.*

4 *Ibid*

5 *Ibid*

Ida.

Ibla.

PLAINTIFF'S FACTUAL ALLEGATIONS

23. On or about December 28, 2021, Plaintiff received a call on her cellular telephone from a phone number with a Caller ID from Wells Fargo.

24. When Plaintiff answered the phone, a man purporting to be one of Wells Fargo's customer service representatives indicated that he was calling Plaintiff to review suspicious transactions on Plaintiff's account.

25. Since all the transactions that the purported representative reviewed with Plaintiff were made in retail locations located in Florida, they were unrecognizable to Plaintiff.

26. As such, Plaintiff told the purported representative that she did not recognize any of those transactions.

27. In response, the purported Wells Fargo representative instructed Plaintiff to login to her online account so that he could assist Plaintiff with the suspicious transactions.

28. After Plaintiff logged into her Wells Fargo account, she discovered that none of the charges mentioned by the purported representative were appearing on her account.

29. After Plaintiff had indicated that the suspicious transactions were not appearing on her account, the purported representative told Plaintiff that he had already removed those transactions from her account.

30. The purported representative informed Plaintiff that someone had used the Zelle function in the Wells Fargo smartphone application to conduct the suspicious transactions on Plaintiff's account. At that point, the purported representative instructed Plaintiff to set up the Zelle function on Plaintiff's Wells Fargo smartphone application to intercept any funds that were susceptible of being lost as a result of the suspicious transactions on Plaintiff's account.

31. After Plaintiff raised some concerns, the purported representative reassured Plaintiff that the only way for her to retrieve her funds instantly was to set up the

1 Zelle function and follow the purported representative's instructions.

2 32. After receiving the purported representative's reassurance, Plaintiff set up the
3 Zelle function on her Wells Fargo smartphone application. As part of the process in
4 setting up this function, Plaintiff was required to send the purported Wells Fargo
5 representative a code.

6 33. Once Plaintiff sent the purported representative the above-mentioned code,
7 Plaintiff was informed that she would see any missing funds back in her account
8 within a few hours.

9 34. The actual Wells Fargo Bank sent to Plaintiff's cellular telephone via text
10 message, a "Verification code" that Plaintiff was directed to use to sign into her
11 Wells Fargo account to verify her mobile number within 24 hours, which text
12 message did not provide any caution to Plaintiff not to share the code with others.

13 35. Plaintiff's transaction with the purported Wells Fargo representative resulted
14 in \$1,000.00⁸ being taken from Plaintiff's checking account with Wells Fargo.

15 36. Plaintiff informed the purported representative that she was going to change
16 her Wells Fargo online banking account password as soon as she ended the call. In
17 response to this assertion, the purported representative told Plaintiff that he would
18 call back within a few days to assist Plaintiff in changing her password.

19 37. At this point, Plaintiff immediately hung up the phone and proceeded to
20 change her Wells Fargo online banking password because she realized that she had
21 just been scammed and that the purported Wells Fargo representative was in fact a
22 scammer.

23 38. Immediately after realizing that Plaintiff had been scammed that same day,
24 Plaintiff disputed the Zelle transaction with Wells Fargo whereby the \$1,000.00 was
25 withdrawn as a result of the scam.

26
27 ⁸ Initially, an attempt was made to transfer \$2,000 through the Zelle mobile
28 application, but only \$1,000 was ultimately transferred because there were
insufficient funds to transfer \$2,000.

1 39. In disputing the transaction, an actual Wells Fargo representative informed
2 Plaintiff that she had been scammed and that several other customers had called
3 Wells Fargo that day about a similar scam. When Plaintiff asked about the
4 likelihood of the transaction being reversed due to the scam, the Wells Fargo
5 representative told Plaintiff that the likelihood was “high.”

6 40. A few days after her first phone call with the purported Wells Fargo
7 representative, Plaintiff received yet another call from the same purported Wells
8 Fargo representative with the same Caller ID, who indicated that he was calling
9 from Wells Fargo. This time, the purported representative indicating that he was
10 calling Plaintiff in order to assist her in setting up a new password for her Wells
11 Fargo online banking account.

12 41. Fearful of being scammed once again, and not knowing for certain whether
13 the caller was from Wells Fargo Bank, Plaintiff hung up the telephone call.

14 42. On December 31, 2021, Wells Fargo Bank issued a provisional credit on
15 Plaintiff’s account for the disputed amount.

16 43. In a letter dated February 10, 2022 that was sent to Plaintiff at Plaintiff’s
17 residential address in Orange County, California, from Wells Fargo’s Online Fraud
18 Claims department, indicated that the bank had completed its investigation into
19 Plaintiff’s dispute and concluded that it would reverse the provisional credit within
20 ten (10) days because the disputed transaction was “made by [Plaintiff] or someone
21 who had [Plaintiff’s] permission to perform transactions on [her] account.”

22 44. On February 24, 2022, Wells Fargo Bank reversed the provisional credit,
23 despite having been aware of the Zelle scam months prior to the unauthorized
24 transaction affecting Plaintiff.

25 45. Upon information and belief, all Defendants were well-aware of the Zelle
26 scam prior to December 28, 2021, yet took virtually no steps to protect consumers,
27 due in part to Defendants’ own financial interests.

28 46. As of the date this Complaint was filed, Plaintiff’s checking account ending

1 still has a deficit of the \$1,000.00.

2 47. Plaintiff generally maintains only a small amount of money in the checking
3 account with Wells Fargo.

4 48. Upon information and belief, Plaintiff's cellular telephone number and use
5 of Wells Fargo Bank and WFC banking services are nonpublic personal
6 information.

7 **CLASS ALLEGATIONS**

8 49. Plaintiff brings this action on behalf of herself and on behalf of all other
9 persons similarly situated.

10 50. Plaintiff is a member of and seeks to represent a nationwide Class, pursuant
11 to Fed. R. Civ. P. 23(b)(2), (b)(3) and/or (b)(4), defined as:

12
13 All persons within the United States whose bank account
14 with Wells Fargo was debited via one or more transactions
15 using the Zelle mobile application that was not
16 permanently credited by Defendant/s in full within 45 days
17 of a dispute by the customer and/or the consumer's
18 authorized representative concerning the transaction(s).

19 51. Additionally, Plaintiff is a member of and seeks to represent a California Sub-
20 Class, pursuant to Fed. R. Civ. P. 23(b)(2), (b)(3) and/or (b)(4), defined as:

21 All persons residing in California whose bank account
22 with Wells Fargo was debited via one or more transactions
23 using the Zelle mobile application that was not
24 permanently credited by Defendant/s in full within 45 days
25 of a dispute by the customer and/or the consumer's
26 authorized representative concerning the transaction(s).

27 52. Excluded from the Class and Sub-Class are Defendants' officers, directors,
28 and employees; any entity in which Defendants have a controlling interest; and the
affiliates, legal representatives, attorneys, successors, heirs, and assigns of

1 Defendant. Further excluded from the Class and Sub-Class are members of the
2 judiciary to whom this case is assigned, their families, and members of their staff.

3 53. Plaintiff reserves the right to modify the proposed class definitions, including
4 but not limited to expanding the class to protect additional individuals and to assert
5 additional sub-classes as warranted by additional investigation.

6 54. Numerosity: The members of the Class and Sub-Class are so numerous that
7 joinder of all of them is impracticable. While the exact number of Class Members is
8 unknown to Plaintiff at this time, based on information and belief, the Class and Sub-
9 Class consists of thousands of individuals nationwide.

10 55. Commonality: There are questions of law and fact common to the Class and
11 Sub-Class, which predominate over any questions affecting only individual Class
12 Members. These common questions of law and fact include, without limitation:

- 13 a. Whether Plaintiff and the Class lost money that was transferred
14 from their account via Zelle;
- 15 b. Whether Plaintiff and the Class are customers of Wells Fargo at
16 the time of the unauthorized transactions;
- 17 c. Whether Defendants Wells Fargo Bank and WFC violated the
18 EFTA by failing to adequately investigate the disputes of Plaintiff and
19 the Class;
- 20 d. Whether Defendants Wells Fargo Bank and WFC violated the
21 EFTA by failing to correct errors on the accounts of Plaintiff and the
22 Class;
- 23 e. Whether the transactions at issue were unauthorized EFTs,
24 making them errors subject to the EFTA's remedial provisions;
- 25 f. Whether Plaintiff and the Class are entitled to maximum
26 statutory damages under the EFTA;
- 27 g. Whether the conduct of Wells Fargo Bank and WFC was
28 "unlawful" as that term is defined in the UCL;

h. Whether the conduct of Wells Fargo Bank and WFC was “unfair” as that term is defined in the UCL;

i. Whether Defendants were negligent in their actions or omissions; and

j. Whether Plaintiff and the Class are entitled to injunctive relief.

6 56. Typicality: Plaintiff's claims are typical of those of other Class and Sub-Class
7 Members because Plaintiff was fraudulently induced by a third party to cause a
8 withdrawal of funds from her Wells Fargo account to occur through the Zelle
9 mobile application, after disputing that unauthorized transaction, Plaintiff was
10 informed by Wells Fargo Bank that the unauthorized transaction would ultimately
11 not be reversed by the bank.

12 57. Adequacy of Representation: Plaintiff will fairly and adequately represent
13 and protect the interests of Class and Sub-Class Members. Plaintiff's Counsel are
14 competent and experienced in litigating consumer class actions.

15 58. Predominance: Defendants have engaged in a common course of conduct
16 toward Plaintiff, Class Members, and Sub-Class Members, in that Plaintiff's, Class
17 and Sub-Class Members were induced into allowing a third party make
18 unauthorized withdrawals on their Wells Fargo accounts using Zelle. The common
19 issues arising from Defendants' conduct affecting Class and Sub-Class Members
20 set out above predominate over any individual issues. Adjudication of these
21 common issues in a single action has important and desirable advantages of judicial
22 economy.

23 59. Superiority: A class action is superior to other available methods for the fair
24 and efficient adjudication of the controversy. Class treatment of common questions
25 of law and fact is superior to multiple individual actions or piecemeal litigation.
26 Absent a Class action, most Class and Sub-Class Members would likely find that
27 the cost of litigating their individual claims is prohibitively high and would
28 therefore have no effective remedy. The prosecution of separate actions by

1 individual Class and Sub-Class Members would create a risk of inconsistent or
2 varying adjudications with respect to individual Class and Sub-Class Members,
3 which would establish incompatible standards of conduct for Defendant. In
4 contrast, the conduct of this action as a Class action presents far fewer management
5 difficulties, conserves judicial resources and the parties' resources, and protects the
6 rights of each Class Member.

7 60. Defendants have acted on grounds that apply generally to the Class and Sub-
8 Class, so that class certification is appropriate.

9 61. Notice: Plaintiff anticipates providing direct notice to the Class and Sub-
10 Class for purposes of class certification, via U.S. Mail and/or email, based upon
11 Defendants' and/or Defendants' agents' records.

12
13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF THE ELECTRONIC FUND TRANSFER ACT ("EFTA"),**

15 **15 U.S.C. §§ 1693, *ET SEQ.***

16 **(On Behalf of Plaintiff and the Class Against Defendants WFC and
17 Wells Fargo Bank Only)**

18 62. Plaintiff realleges and incorporates herein by reference the allegations
19 contained in all preceding paragraphs, and further alleges as follows:

20 63. The Electronic Fund Transfer Act ("EFTA") and Regulation E apply to
21 electronic fund transfers that authorize a financial institution to debit or credit a
22 consumer's account. 12 C.F.R. 1005.3(a).

23 64. "If a financial institution, within sixty days after having transmitted to a
24 consumer pursuant to [15 U.S.C. § 1693d(a), (c), or (d)] or notification pursuant to
25 [15 U.S.C. § 1693(d)] receives oral or written notice in which the consumer[:] (1)
26 sets forth or otherwise enables the financial institution to identify the name and the
27 account number of the consumer; (2) indicates the consumer's belief that the
28 documentation, or, in the case of notification pursuant to [15 U.S.C. § 1693d(b)], the

1 consumer's account, contains an error and the amount of such error; and (3) sets
 2 forth the reasons for the consumer's belief (where applicable) that an error has
 3 occurred," the financial institution is required to investigate the alleged error. 15
 4 U.S.C. § 1693f(a).

5 65. After said investigation, the financial institution must determine whether an
 6 error has occurred and report or mail the results of such investigation and
 7 determination to the consumer within ten (10) business days. *Id.*

8 66. A financial institution that provisionally recredits the consumer's account for
 9 the amount alleged to be in error pending an investigation, however, is afforded
 10 forty-five (45) days after receipt of notice of error to investigate. *Id.* § 1693f(c).

11 67. Pursuant to the EFTA, an error includes "an unauthorized electronic fund
 12 transfer." *Id.* § 1693f(f).

13 68. An Electronic Fund Transfer ("EFT") is any transfer of funds that is initiated
 14 through an electronic terminal, telephone, computer, or magnetic tape for the
 15 purpose of ordering, instructing, or authorizing a financial institution to debit or
 16 credit a consumer's account. 12 C.F.R. 1005.3(b)(1). Accordingly, Regulation E
 17 applies to any person-to-person ("P2P") or mobile payment transactions that meet
 18 the definition of EFT. 12 C.R.F. 1005.3(b)(1)(v); *id.*, Comment 3(b)(1)-1ii.

19 69. Unauthorized EFTs are EFTs from a consumer's account initiated by a person
 20 other than the consumer without actual authority to initiate the transfer and from
 21 which the consumer receives no benefit. 12 C.F.R. 1005.2(m).

22 70. According to the CFPB, when a third party fraudulently induces a consumer
 23 into sharing account access information that is used to initiate an EFT from the
 24 consumer's account, that transfer meets Regulation E's definition of an unauthorized
 25 EFT.⁹

26
 27 ⁹ <https://www.consumerfinance.gov/compliance/compliance-resources/deposit-accounts-resources/electronic-fund-transfers/electronic-fund-transfers-faqs/> (last
 28 visited March 30, 2022).

1 71. In particular, Comment 1005.2(m)-3 of Regulation E explains that an
2 unauthorized EFT includes a transfer initiated by a person who obtained the access
3 device from the consumer through robbery or fraud. As such, when a consumer is
4 fraudulently induced into sharing account access information with a third party, and
5 a third party uses that information to make an EFT from the consumer's account, the
6 transfer is an unauthorized EFT under Regulation E.¹⁰

7 72. Here, Plaintiff and other class members were fraudulently induced by a third-
8 party scammer involving the Zelle mobile application into sharing Wells Fargo
9 account access information.

10 73. The third party then used the information fraudulently obtained from Plaintiff
11 and other class members to make unauthorized EFTs from the accounts of Plaintiff
12 and other class members from their Wells Fargo accounts.

13 74. After the unauthorized EFTs were made, said EFTs appeared on the bank
14 statements of Plaintiffs and other class members.

15 75. Plaintiff and other class members notified Wells Fargo Bank and WFC of
16 these errors within sixty (60) days of their appearances on the accounts of Plaintiff
17 and other class members.

18 76. Wells Fargo and WFC then issued provisional credits in the amounts of those
19 credits on the accounts of Plaintiff and at least some of the Class members.

20 77. After receiving notice of the unauthorized EFTs on the accounts of Plaintiff
21 and other class members, Wells Fargo Bank and/or WFC informed Plaintiff and at
22 least some of the Class members that the provisional credits placed on said accounts
23 would be reversed because Wells Fargo Bank and WFC erroneously concluded that
24 the unauthorized EFTs "were made by [Plaintiff and other class members] or
25 someone who had [their] permission to perform transactions on [their] account."

26
27
28 ¹⁰ *Ibid.*

78. As a direct and proximate result of the conduct of Wells Fargo Bank and WFC, Plaintiff and other Class Members were unable to reclaim funds that were fraudulently taken from their accounts with Wells Fargo.

79. Upon information and belief, Wells Fargo Bank and WFC knowingly and willfully concluded that the transfers of funds via Zelle on accounts of Plaintiff and other Class members were not in error when such conclusions could not reasonably have been drawn from the evidence available to the financial institutions at the time of the investigation. 15 U.S.C. § 1693f(e)(2).

80. Upon information and belief, Wells Fargo Bank and WFC intentionally determined that the unwanted transfer of funds via Zelle on accounts of Plaintiff and other Class members were not in error due to, at least in part, WFC's financial self-interest as a stakeholder in Zelle.

81. As such, Plaintiff and other class members are each entitled to (i) actual damages; (ii) treble damages; (iii) the lesser of \$500,000.00 or one percent (1%) of the net worth of Wells Fargo and WFC; and (iv) reasonable attorneys' fees and costs. *Id.* §§ 1693f(e)(2), 1693m(a)(2)(B)-(3).

SECOND CAUSE OF ACTION

CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL"),

CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.

**(On Behalf of Plaintiff and the Sub-Class Against Wells Fargo Bank
and WFC Only)**

82. Plaintiff realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

83. The UCL defines “unfair business competition” to include any “unlawful, unfair, or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal. Bus. & Prof. Code § 17200.

1 84. The UCL imposes strict liability. Plaintiff need not prove that Defendant
2 intentionally or negligently engaged in unlawful, unfair, or fraudulent business
3 practices—but only that such practices occurred.

4 ***“Unfair” Prong***

5 85. A business practice is “unfair” under the UCL if it offends an established
6 public policy or is immoral, unethical, oppressive, unscrupulous or substantially
7 injurious to consumers, and that unfairness is determined by weighing the reasons,
8 justifications and motives of the practices against the gravity of the harm to the
9 alleged victims.

10 86. Wells Fargo Bank and WFC’s actions constitute “unfair” business practices
11 because, as alleged above, they intentionally declined to reverse charges on the
12 accounts of Plaintiff and Class Members even though they knew or should have
13 known that said charges were in fact unauthorized transactions that needed to be
14 reversed pursuant to the terms of EFTA.

15 87. Wells Fargo Bank and WFC’s failure to adequately investigate the
16 unauthorized transactions, including after acknowledging the Zelle scam in some
17 instances, coupled with their financial interest in Zelle and the bank’s decision to not
18 permanently credit their customers’ accounts that were affected by the scam, offends
19 established public policy, including that embodied by the EFTA.

20 88. Through their practices, Wells Fargo Bank and WFC save millions of dollars
21 which should have, in all fairness, been permanently credited to Plaintiff and the
22 California Sub-Class following their disputes with the bank.

23 89. The harm to Plaintiff and Class Members grossly outweighs the utility of
24 Defendant’s practices as there is no utility to practices of Wells Fargo Bank and
25 WFC.

26 ***“Unlawful” Prong***

27 90. A business act or practice is “unlawful” under the UCL if it violates any other
28 law or regulation.

1 91. Wells Fargo Bank and WFC's acts and practices alleged above constitute
2 unlawful business acts or practices as they have violated the plain language of EFTA
3 as described in Plaintiff's First Cause of Action above.

4 92. The violation of any law constitutes as "unlawful" business practice under the
5 UCL.

6 93. These acts and practices alleged were intended to or did result in violations of
7 EFTA.

8 94. Wells Fargo Bank and WFC have and will continue to unlawfully deny the
9 transaction disputes of Plaintiff, the Class, and the public by claiming that said
10 disputed transactions are "authorized," even though said transactions are actually
11 "unauthorized," as that term is defined by EFTA and applicable regulations.
12 Consequently, the practices of Wells Fargo Bank and WFC constitute unfair and
13 unlawful business practices within the meaning of the UCL.

14 95. Pursuant to the UCL, Plaintiff and the Class are entitled to preliminary and
15 permanent injunctive relief and order Wells Fargo Bank and WFC to cease this
16 unfair and unlawful competition, as well as disgorgement and restitution to Plaintiff
17 and the Class of all the revenues associated with this unfair and unlawful
18 competition, or such portion of said revenues as the Court may find applicable.

19
20 **THIRD CAUSE OF ACTION**

21 **NEGLIGENCE**

22 **(On Behalf of Plaintiff, the Class and the Sub-Class Against All Defendants)**

23 96. Plaintiff realleges and incorporates herein by reference the allegations
24 contained in all preceding paragraphs, and further alleges as follows:

25 97. Wells Fargo Bank and WFC owed Plaintiff and the Class at least a duty to
26 take reasonable steps to safeguard customer financial information and protect their
27 financial accounts from malicious third parties, adequately warn of known risks

1 and/or dangers associated with the Zelle mobile application, and properly investigate
2 disputed transactions accomplished through the Zelle mobile application.

3 98. Zelle owed Plaintiff and the Class at least a duty to take reasonable steps to
4 adequately warn of known risks and/or dangers associated with the Zelle mobile
5 application, and to take appropriate steps in response to a known scam involving the
6 mobile application to protect consumers from malicious third parties.

7 99. Defendants breached their obligations to Plaintiff and Class Members and
8 were otherwise negligent and/or reckless by at least:

9 a. Failing to maintain adequate data security measures to prevent or
10 reduce the risk of disclosure of the names, phone numbers, and bank
11 affiliation of Plaintiff and the Class to malicious third parties;

12 b. Failing to adequately protect the private information of Plaintiff
13 and the Class;

14 c. Failing to properly warn Plaintiff and the Class of the risks and/or
15 dangers associated with the Zelle mobile application;

16 d. Failing to take appropriate steps to avoid unauthorized
17 transactions through the Zelle mobile application in response to known
18 scams and continuing with business as normal;

19 e. Failing to adequately investigate the unauthorized transactions
20 made on the accounts of Plaintiff and the Class using the Zelle payment
21 platform.

22 f. Failing to implement appropriate and sufficient safeguards
23 against scams of the nature alleged in the Complaint in light of the
24 knowledge that those scams have been rampant across the country;

25 g. Failing to reverse unauthorized transactions following disputes
26 of Plaintiff and the Class despite Defendants' knowledge that said
27 transactions were unauthorized as part of a scam that is well-known to
28 Defendants; and

h. Failing to permanently reverse unauthorized transactions upon a sufficient showing by Plaintiff and the Class that said transactions were unauthorized.

100. As a direct and proximate result of Defendants' breach, Plaintiff and Class Members lost funds from their Wells Fargo accounts.

101. Accordingly, Plaintiff and Class members have lost millions of dollars and further face a continuing and increased risk of fraud and loss of money.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against Defendants, and each of them, as follows:

- Class certification of this action;
- Appointment of Plaintiff as Class Representative;
- Appointment of Plaintiff's attorneys as Class Counsel;
- An award of actual damages, in an amount to be determined at trial;
- An award of treble damages against Wells Fargo Bank and WFC pursuant to the EFTA;
- An award of the lesser of \$500,000.00 or one percent (1%) of the net worth of Wells Fargo Bank and WFC;
- Injunctive and other equitable relief against Defendants as necessary to protect the interests of Plaintiff and other Class Members, and an order prohibiting Defendants from engaging in unlawful and/or unfair acts described above, including public injunctive relief;
- An order of restitution from Defendants;
- An order declaring Defendants' conduct as unlawful;
- Costs of Suit;
- Pre- and post-judgment interest;
- An award of reasonable attorneys' fees; and
- Any other relief the Court may deem just and proper, including interest.

DEMAND FOR TRIAL BY JURY

Plaintiff, individually and on behalf of all others similarly situated, hereby demands a jury trial on all claims so triable.

Dated: April 5, 2022

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Abbas Kazerounian

Abbas Kazerounian, Esq.

ATTORNEY FOR PLAINTIFF